REMARKS/ARGUMENTS

Claim 1 has been amended to overcome the rejection under 35 USC 112, using the words of the specification (see page 3, line 2; page 6, lines 1-4).

Rejection of claims 1 and 2 under 35 USC 102(b) as anticipated by Theurer '538, cited, is respectfully traversed. Referring to the grounds of rejection at (a) on page 3 of the Office letter, while this terminology is no longer used in amended claim 1, it should be noted that Theurer '538 specifically refers to the problem of uniformly and fully filling "a box with substantially perpendicular side walls." The patented invention provides displaceable bulkhead partition 65 for this purpose. Applicant uses no such partition in the storage car but **measures** a maximally acceptable height of the bulk material in the storage car at a rear end thereof in the conveying direction of the bulk material. No such measurement is suggested by the cited patent, measuring being defined in the dictionary as "to ascertain the dimension, quantity or capacity of." In the patented apparatus, the speed of the bulk material conveyor is synchronized with the speed of the bulkhead partition displacement. **Shutting off** the conveyor drive when the car is completely filled does **not** suggest automatically **adjusting** the storing speed mode of the conveyor, and does not even hint at

doing so "in response to the measured maximally acceptable height of the bulk material pile," no such measurement being effected in the patented box car. In col. 5, lines 35-37, the patent states "When the car is filled completely and uniformly, drive 18 and 28 are switched off." This had been done in the past by an operator visually observing the filling operation. Nothing in the cited patent suggests the claimed conveyor storing speed **automatic adjustment** to fill the car to a maximum capacity. It is respectfully submitted that there is, in fact, nothing in the patent disclosure that supports the Examiner's statement in the last seven lines of (a) on page 3 of the Office letter. Nor is step (b) obvious from the prior art teaching. Thus, claim 1 is respectfully submitted neither to be anticipated by Theurer '538, nor to be obvious therefrom.

The rejection of claims 1-4 under 35 USC 103(a) as being unpatentable either over Theurer '538 in view of Theurer et al '713, also cited, or Theurer et al '713 in view of Theurer '538 is also respectfully traversed.

As explained hereinabove and contrary to the Examiner's holding, it is respectfully submitted that Theurer '538 nowhere suggests, much less "teaches measuring the amount of the accumulating pile of bulk material by sensing of the height of the pile." The operation of the '713 apparatus in connection

with sensor 10 is explained in col. 6, line 47, to col. 7, line 19, for which applicant's agent provided a translation in the previous amendment (page 5). All that **forward** sensor 10 merely provides stoppage of the loading when the front end of the accumulating pile has reached the front end of the car. Page 2, paragraph 5, of Theurer et al '713 points out that the control by sensor 10 avoids the necessity of operators climbing up on the car and visually observing whether and when the car is filled. This enhances the safety of the operating personnel who would be subject to getting into the traffic on a neighboring track as they change from car to car to observe the state of filling. This control is achieved by Theurer '538 with displaceable bulkhead partition 65 so that sensor 10 is superfluous. Therefore, placing sensor 10 in the Theurer '538 box car cannot be obvious since it would serve no purpose.

If it were obvious, it would not suggest the **rear** sensor device 20 of applicant. All that sensor 10 does is to sense or record that the accumulating pile has reached the forward end of the car. It **measures** nothing and certainly not a maximally acceptable height of the bulk material at a rear end of the car. Frequently, irregular amounts of bulk material are delivered into the car, and it may happen that a relatively small amount of bulk material has accumulated at the rear end of the car when the pile has reached sensor 10 in front, which causes the conveyor to be

stopped. Thus merely stopping the conveyor at this point by no means assures that the car has been filled to a maximum capacity. Therefore, if the unobvious combination of the two patents were made, it would not make claim 1 obvious.

As the above comments make clear, it would not have been obvious to provide bulkhead partition 65 in a box car having forward sensor 10. If it were, it would not lead to the method of claim 1.

Addressing the Examiner's "conclusion," the above comments are believed to make it clear that forward sensor 10 of Theurer et al '713 does **not** measure the amount of bulk material along the entire length of the storage car, nor does it **measure** anything. The sensor may be a light barrier (optical sensor) but this changes nothing with respect to the differences between the prior art and the claimed method. As explained above, when the accumulating pile has reached sensor 10, the car is **not** necessarily "sensed to be filled."

As also explained in the above discussion of Theurer '538, this patent does **not** "reinforce the teaching of measuring the amount of bulk material." Theurer '538 **never measures** the amount of bulk material. He merely regulates the flow of bulk material with bulkhead partition 65.

As to Theurer et al '713's "automatically switching from a faster to a slower speed," as the previously submitted translation shows, this automatic **adjustment** is of the conveyor speed in the **following storage car**, not in the car being filled, as set forth in claim 1. Theurer '538 teaches in col. 5, lines 37/38, that the conveyor drives are **switched off**, not that the conveying speed is reduced to a storage speed. This patent nowhere suggests that "when it (the amount of material) is sensed, the car is filled completely and uniformly." Theurer '538 nowhere suggests **sensing** the amount of material. He never "in fact measured the amount of material accumulated." He merely switches off the conveyor drive when the car is filled.

Col. 2, line 15, of Theurer'538 merely provides "a single driven conveyor band arrangement for automatically and completely loading and unloading the car." It has nothing to do with "automatically adjusting the storing speed mode." Nor does col. 5, lines 37/38, which relates to **switching off** the conveyor drives. As to Theurer et al '713, it adjusts the conveyor speed in the **adjacent** storage car.

In view of the above comments, it is submitted that claim 1 is clearly patentable over the art of record, and dependent claims 1-5 are believed to be allowable therewith.

A sincere effort having been made to overcome all grounds of rejection, favorable reconsideration and allowance of claim 1-5 are respectfully solicited.

Respectfully submitted,
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